

MDR Tracking Number: M5-04-1736-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on February 13, 2004.

Based on correspondence received 04-26-04 from the requestor, Innovative Physical Therapy, the requestor has withdrawn the unresolved fee issues for the following dates of service: 06-12-03, 07-11-03, 07-28-03, 07-30-03 and 08-01-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The aquatic therapy and therapeutic exercise were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services for dates of service 05-27-03 through 08-01-03.

This Findings and Decision is hereby issued this 20<sup>th</sup> day of May 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 05-27-03 through 08-01-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 20<sup>th</sup> day of May 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/pr

May 11, 2004

Rosalinda Lopez  
Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

REVISED REPORT  
Corrected TWCC#

Re: Medical Dispute Resolution  
MDR #: M5-04-1736-01  
IRO Certificate No.: 5055

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in the area of Physical Medicine/Rehabilitation, and is currently on the TWCC Approved Doctor List.

**REVIEWER'S REPORT**

**Information Provided for Review:**

Correspondence  
H&P and office notes  
Physical therapy notes  
Radiology reports

**Clinical History:**

The patient had a lumbar injury in \_\_\_\_, followed by surgery and a return to work, as well as another injury on \_\_\_\_, subsequently requiring 2 back surgeries. The patient apparently had failed laminectomy syndrome and chronic low back pain syndrome for which she had a morphine pump inserted, which I infer was inserted in 2001. She had a reduction in her pain "a little". She reported a pain level of 6 out of 10 at rest increasing to 10 out of 10 with any increased activities or prolonged walking. She underwent aquatic therapy and therapeutic exercise during the period including 6/27/03 through 8/1/03.

**Disputed Services:**

Aquatic therapy and therapeutic exercise during the period of 05/27/03 through 08/01/03

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were medically necessary in this case.

**Rationale:**

This patient clearly had chronic low back pain resulting from injuries and subsequent surgeries to her back from injuries at work. Prior to the onset of the office visits initiating aquatic therapy, physical therapy, and therapeutic exercise during the period of 5/27/03 through 8/1/03, the patient was unable to have meaningful activity of most any kind without pain. Her pain decreased and functional activity increased, as well as medication decreased as a result of the aquatic therapy and therapeutic exercise during the above noted period. This clearly reflected the judgments on the physicians with regards to the aquatic therapy and therapeutic exercise rendered.

Sincerely,